

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI

MARK WELLMAN

Plaintiffs,

vs.

CITY OF JENNINGS, MISSOURI,  
ST. LOUIS COUNTY, MISSOURI,  
JEFF FUESTING, and JON BELMAR

Defendants.

Cause No.

**PLAINTIFF DEMANDS**

**TRIAL BY JURY**

---

**PLAINTIFF'S COMPLAINT – WARRANTLESS SEARCH AND  
SEIZURE – CIVIL RIGHTS ACT – CIVIL DAMAGES**

---

**Common Count**

Plaintiff, for cause of action against defendants, and each of them, states:

1. Plaintiff Mark Wellman at all times material hereto has been a citizen of the State of Missouri, residing in the City of Jennings, located within St. Louis County, State of Missouri.

2. Defendant Captain Jeff Fuesting, at all times material hereto, was a police captain for the St. Louis County Police Department. Defendant Fuesting is being sued in his individual capacity, and he is a person within the meaning of the Civil Rights Act, Title 42 of the United States Code, Section 1983.

3. Defendant City of Jennings, Missouri is a political subdivision of the State of Missouri, duly created and existing as under the laws and statutes of the State of Missouri. The City of Jennings is a person within the meaning of the Civil Rights Act, Title 42 of the United States Code, Section 1983, and it is located within the Eastern District of this Court in the State of Missouri.

4. Defendant St. Louis County, Missouri is a political subdivision of the State of Missouri, duly created and existing as under the laws and statutes of the State of Missouri. St. Louis County, Missouri is a person within the meaning of the Civil Rights Act, Title 42 of the United States Code, Section 1983, and it is located within the Eastern District of this Court in the State of Missouri.

5. Defendant Jon Belmar, at all times material hereto, was the Chief of Police of St. Louis County, Missouri and is being sued in his individual capacity, and is a person within the meaning of the Civil Rights Act, Title 42 of the United States Code, Section 1983.

6. The actions described herein were performed by various officials of the City of Jennings pursuant to practices, customs, or standard operating procedures of the City of Jennings, or were performed by or directed by those officials of the City of Jennings possessing final authority with respect to the direction of inspections, investigations and/or warrantless search and seizure procedures; consequently, Defendant City of Jennings is subject to liability herein pursuant to the Civil Rights Act, Title 42 of the United States Code, Section 1983.

7. The actions described herein were performed by various officials of St. Louis County pursuant to practices, customs, or standard operating procedures of St. Louis County, Missouri, or were performed by or directed by those officials of the St. Louis County possessing final authority with respect to the direction of inspections, investigations and/or warrantless search and seizure procedures; consequently, Defendant St. Louis County is subject to liability herein pursuant to the Civil Rights Act, Title 42 of the United States Code, Section 1983.

8. On or about December 28th, 2014 Plaintiff Mark Wellman, who is a Firefighter with the Hazelwood Fire District, was residing in his home in the City of Jennings, Missouri when Defendants including police officers from St. Louis

County, Missouri and the City of Jennings, Missouri entered his home without permission, authority, or warrant.

9. On the same date and at the same place, Defendants' searched plaintiff's residence and confiscated plaintiff's entire gun collection and other personal property. Defendants, jointly and severally, without warning, just cause or excuse, and without color of warrant, and without the consent of plaintiff, came into and upon said dwelling, conducting a search upon the premises, severely and traumatically disturbing the peace and privacy of the plaintiff, and causing the damages and injuries complained of herein.

10. Defendants removed Plaintiff's gun collection without a warrant or permission.

11. Said search consisted of, but was not necessarily limited to, confiscation of plaintiff's gun collection and other personal property and searching plaintiffs' private home.

12. Plaintiff has demanded that Defendants return his gun collection and other personal property and Defendants have failed and refused to do so.

13. Said actions of defendants, including the removal and confiscation of plaintiff's firearms and personal property, searching his home and possessions and remaining upon plaintiff's premises, were acts performed without color of warrant.

14. The searches and seizures in question, being made without color of warrant, constitute a violation of the Second and Fourth Amendments of the U.S. Constitution.

15. Each and every one of the acts of defendants described herein was done under the authority and direction of the City of Jennings and or St. Louis County within its knowledge and the scope of such authority. The acts of defendants Belmar and Fuesting were not performed in good faith.

16. Each and all of the acts of the defendants alleged herein were done by defendants, and each of them, under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the St. Louis County, Missouri and/or the City of Jennings, Missouri, and under the authority of their respective office(s) for said county and municipality.

### **Count I**

#### **Unreasonable Search And Seizure**

Plaintiff, for cause of action against Defendants, and each of them, states:

17. Plaintiff repleads and incorporates by reference the “Common Count” set forth above.

18. This action arises under the United States Constitution, particularly under the provisions of the Second, Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States, and under federal law, particularly the Civil Rights Act, Title 42 of the United States Code, Section 1983.

19. This court has jurisdiction of this cause under and by virtue of Title 28 of the United States Code, Sections 1331 and 1343.

20. The conduct of the defendants, and each of them, as described herein, constituted unreasonable searches and seizures in that defendants were not under color of search warrant.

21. Defendants’ illegal and unreasonable searches were done intentionally and in violation of clearly established constitutional standards, and they constituted deliberate, reckless, or callous disregard for plaintiff’s constitutional rights.

22. The conduct of the defendants, and each of them, is the direct and proximate cause of all of plaintiff’s damages and injuries complained of herein. These damages and injuries include, but are not limited to, psychological trauma,

physical trauma, continuing fear of police and public officials, fear of security in plaintiff's dwelling, and loss of personal property, all of which have resulted in potential financial costs for psychological or psychiatric counseling, treatment or evaluation, loss of wages, and attorneys' fees, as well as other costs and expenses. The conduct of defendants, and each of them, deprived plaintiff of the following rights, privileges and immunities secured to plaintiff, by the Constitution of the United States of America:

- (a) The right of plaintiff to be secure in his persons and effects against unreasonable searches and seizures under the Fourth and Fourteenth Amendments to the Constitution of the United States of America.
- (b) The right of plaintiff not to be deprived of life, liberty, or property without due process of law, and the right to the equal protection of the laws, secured by the Fifth and Fourteenth Amendments to the Constitution of the United States of America.
- (c) The right of plaintiff to his privacy secured by the Constitution of the United States of America.
- (d) The right of plaintiff to keep and bear arms.

23. The acts, conduct, and behavior of Defendants, and each of them, were performed knowingly, intentionally, and maliciously, by reason of which Plaintiff is entitled to an award of punitive or exemplary damages.

WHEREFORE, Plaintiff prays for judgment against the Defendants, jointly and severally, as follows:

- (a) For general damages in the amount of five hundred thousand dollars (\$500,000).

- (b) For punitive or exemplary damages in the amount of one million five hundred thousand dollars (\$1,500,000).
- (c) For attorneys' fees and the costs of this action.
- (d) For the return of his personal property.
- (e) For other such judgment and relief as may be afforded Plaintiff by law, and which may seem just and equitable to this Honorable Court.

## **Count II**

### **Violation of Due Process Rights**

Plaintiff, for cause of action against Defendants, and each of them, states:

24. Plaintiff repleads and incorporates by reference paragraphs 1 – 23 set forth above.

25. This action arises under the United States Constitution, particularly under the provisions of the Second, Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States, and under federal law, particularly the Civil Rights Act, Title 42 of the United States Code, Section 1983.

26. This court has jurisdiction of this cause under and by virtue of Title 28 of the United States Code, Sections 1331 and 1343.

27. The conduct of the Defendants, and each of them, as described herein, constituted an illegal seizure of Plaintiff's property and person and deprived Plaintiff of his property and liberty without due process of law.

28. Defendants' conduct was done intentionally and in violation of clearly established constitutional standards, and constituted deliberate, reckless, or callous disregard for Plaintiff's constitutional rights.

29. The conduct of the defendants, and each of them, is the direct and proximate cause of all of plaintiff's damages and injuries complained of herein.

These damages and injuries include, but are not limited to, psychological trauma, physical trauma, continuing fear of police and public officials, fear of security in plaintiff's dwelling, and loss of personal property, all of which have resulted in potential financial costs for psychological or psychiatric counseling, treatment or evaluation, loss of wages, and attorneys' fees, as well as other costs and expenses. The conduct of defendants, and each of them, deprived plaintiff of the following rights, privileges and immunities secured to plaintiff, by the Constitution of the United States of America:

- (a) The right of plaintiff to be secure in his person and effects against unreasonable searches and seizures under the Fourth and Fourteenth Amendments to the Constitution of the United States of America.
- (b) The right of plaintiff not to be deprived of life, liberty, or property without due process of law, and the right to the equal protection of the laws, secured by the Fifth and Fourteenth Amendments to the Constitution of the United States of America.
- (c) The right of plaintiff to his privacy secured by the Constitution of the United States of America.
- (d) The right of plaintiff to keep and bear arms.

30. The acts, conduct, and behavior of defendants, and each of them, were performed knowingly, intentionally, and maliciously, by reason of which plaintiff is entitled to an award of punitive or exemplary damages.

WHEREFORE, Plaintiff prays for judgment against the defendants, jointly and severally, as follows:

- (a) For general damages in the amount of five hundred thousand dollars (\$500,000).

- (b) For punitive or exemplary damages in the amount of one million five hundred thousand dollars (\$1,500,000).
- (c) For attorneys' fees and the costs of this action.
- (d) For the return of his personal property.
- (e) For other such judgment and relief as may be afforded plaintiff by law, and which may seem just and equitable to this Honorable Court.

### Count III

#### Conspiracy

Plaintiff, for cause of action against Defendants, and each of them, states:

- 31. Plaintiff repleads and incorporates by reference paragraphs 1 - 30 set forth above.
- 32. This action arises under the United States Constitution, particularly under the provisions of the Second, Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States, and under federal law, particularly the Civil Rights Act, Title 42 of the United States Code, Sections 1983 and 1985.
- 33. This court has jurisdiction of this cause under and by virtue of Title 28 of the United States Code, Sections 1331 and 1343.
- 34. The conduct of the defendants, and each of them, as described herein, constituted a conspiracy in that they acted in concert to violate the constitutional rights of plaintiff in violation of United States Code, Section 1985, and the defendants acts of conspiracy deprived and denied to plaintiff his constitutionally protected rights under the Second, Fourth, Fifth and Fourteenth Amendments, all in violation of 42 United States Code Section 1985.
- 35. The conduct of the defendants, and each of them, is the direct and proximate cause of all of plaintiff's damages and injuries complained of herein.



These damages and injuries include, but are not limited to, psychological trauma, physical trauma, continuing fear of police and public officials, fear of security in plaintiff's dwelling, and loss of personal property, all of which have resulted in potential financial costs for psychological or psychiatric counseling, treatment or evaluation, loss of wages, and attorneys' fees, as well as other costs and expenses. The conduct of defendants, and each of them, deprived plaintiff of the following rights, privileges and immunities secured to plaintiff, by the Constitution of the United States of America:

- (a) The right of plaintiff to be secure in his person and effects against unreasonable searches and seizures under the Fourth and Fourteenth Amendments to the Constitution of the United States of America.
- (b) The right of plaintiff not to be deprived of life, liberty, or property without due process of law, and the right to the equal protection of the laws, secured by the Fifth and Fourteenth Amendments to the Constitution of the United States of America.
- (c) The right of plaintiff to his privacy secured by the Constitution of the United States of America.
- (d) The right of plaintiff to keep and bear arms.

36. The acts, conduct, and behavior of defendants, and each of them, were performed knowingly, intentionally, and maliciously, by reason of which plaintiff is entitled to an award of punitive or exemplary damages.

WHEREFORE, Plaintiff prays for judgment against the defendants, jointly and severally, as follows:

- (a) For general damages in the amount of five hundred thousand dollars (\$500,000).
- (b) For punitive or exemplary damages in the amount of one million five hundred thousand dollars (\$1,500,000).
- (c) For attorneys' fees and the costs of this action.
- (d) For the return of his personal property.
- (e) For other such judgment and relief as may be afforded plaintiff by law, and which may seem just and equitable to this Honorable Court.

#### **Count IV**

##### **Second Amendment – Right to Keep and Bear Arms**

Plaintiff, for cause of action against defendants, and each of them, states:

37. Plaintiff repleads and incorporates by reference paragraphs 1 - 36 set forth above.

38. Defendants, by their acts, individually and collectively, as stated above, denied and punished plaintiff for his constitutionally protected right to keep and bear arms.

39. The conduct of the defendants, and each of them, as described herein, constituted a violation of plaintiff's second amendment right to keep and bear arms.

40. Defendants' unlawful confiscation of plaintiff's firearms was done intentionally and in violation of clearly established constitutional standards, and it constituted deliberate, reckless, or callous disregard for plaintiff's constitutional rights.

41. The conduct of the defendants, and each of them, is the direct and proximate cause of all of plaintiff's damages and injuries complained of herein. These damages and injuries include, but are not limited to, psychological trauma,

physical trauma, continuing fear of police and public officials, fear of security in Plaintiff's dwelling, loss of personal property, all of which has resulted in potential financial costs for psychological or psychiatric counseling, treatment or evaluation, loss of wages and attorneys' fees, as well as other costs and expenses. The conduct of defendants, and each of them, deprived plaintiff of the following rights, privileges and immunities secured to plaintiff, and each of them, by the Constitution of the United States of America:

- (a) The right of plaintiff to lawfully possess a firearm in accordance with the Second and the Fourteenth Amendments to the Constitution of the United States of America.
- (b) The right of plaintiff not to be deprived of life, liberty, or property without due process of law, and the right to the equal protection of the laws, secured by the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

WHEREFORE, Plaintiff prays for judgment against the defendants, jointly and severally, as follows:

- (a) For general damages in the amount of five hundred thousand dollars (\$500,000).
- (b) For punitive or exemplary damages in the amount of one million five hundred thousand dollars (\$1,500,000).
- (c) For attorneys' fees and the costs of this action.
- (d) For the return of his personal property.

- (e) For other such judgment and relief as may be afforded plaintiff by law, and which may seem just and equitable to this Honorable Court.

#### **Count V—Conversion**

- 42. Plaintiff repleads paragraphs 1 through 41.
- 43. Plaintiff's gun collection is the property of plaintiff.
- 44. Plaintiff has made demand upon defendants for the property, but defendants have wrongfully and unlawfully refused to deliver the gun collection to plaintiff and thereby converted the same to their own use.
- 45. Plaintiff's gun collection has a fair market value of \$50,000.
- 46. The defendants' actions as described herein demonstrate said defendants' evil motives and deception, and reckless indifference to the rights of the plaintiff, entitling plaintiff to punitive damages.

WHEREFORE, Plaintiff prays for judgment against the defendants, jointly and severally, as follows:

- (a) For general damages in the amount of five hundred thousand dollars (\$500,000).
- (b) For punitive or exemplary damages in the amount of one million five hundred thousand dollars (\$1,500,000).
- (c) For attorneys' fees and the costs of this action.
- (d) For the return of his personal property.
- (e) For other such judgment and relief as may be afforded plaintiff by law, and which may seem just and equitable to this Honorable Court.

HEARNE & BENDICK LLC

*Matt Hearne*

---

Matthew H. Hearne #86601  
Brian Bendick #57168MO  
230 South Bemiston, Suite 770  
St. Louis, MO 63105  
Telephone (314) 863-0200  
Fax (314) 863-4247  
[mhearne@hb-law.com](mailto:mhearne@hb-law.com)  
bbendick@hb-law.com  
Attorneys for plaintiff